

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 2

Call to Order: By **CHAIRMAN TOM ZOOK**, on April 25, 2003 at 5:00 P.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Rep. Dave Lewis, Chairman (R)
Sen. Bob Keenan (R)
Rep. Monica Lindeen (D)
Sen. Linda Nelson (D)
Rep. Jeff Pattison (R)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch.

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 2, 4/22/2003
Executive Action:

CHAIRMAN TOM ZOOK asked **Terry Johnson, Legislative Fiscal Division**, for a report on the status sheet. According to the fiscal analyst, they had 86 total amendments left to consider. **CHAIRMAN ZOOK** reminded the committee they really don't have to offer them.

Mr. Johnson reported on general fund status sheet #14. The current projected balance at the end of 2005 was \$32,454,000. This takes into account the amendments that were stripped off of **HB 363**. There is a \$26 million positive transfer due to that bill. In addition, the status includes the effects of **SB 407**,

which is the income tax revision and the tax increases as based on the most current fiscal note prepared by the Executive. Those are the two key pieces of legislation built into the status at this point in time. If it is the goal of the legislature to get to a \$50 million ending fund balance, that means somewhere in the process they still have to come up with about \$18 million.

Section A:

REP. DAVE LEWIS questioned **HB000220.agd. EXHIBIT(frs88hb0002a01)** He said when the House brought back **HB 424**, the intent of the sponsor was to accept the Senate amendments. He asked if this amendment is needed, then what is going on with **SB 62**.

Taryn Purdy advised they don't need to do the amendment.

Motion: **REP. LEWIS** moved that **HB000221.AGD BE ADOPTED. EXHIBIT(frs88hb0002a02)**

REP. LEWIS stated **HB000221.agd** is contingent on special revenue to implement **HB 424**, a telemarketing bill. It appears the bill will pass, but if it doesn't the amendment is void.

Discussion:

SEN. BOB KEENAN commented the numbers are smaller on the amendment than on the fiscal note for state special revenue.

Vote: Motion carried unanimously.

CHAIRMAN ZOOK advised **HB 748** has been transmitted to the Governor. The amount in the amendment is the amount in the fiscal note.

Motion: **SEN. LINDA NELSON** moved that **HB000223.AGD BE ADOPTED. EXHIBIT(frs88hb0002a03)**

CHAIRMAN ZOOK stated it is \$97,000 general fund.

SEN. KEENAN advised it is a positive general fund of \$3.3 million in 2003, and a hit of \$97,000 in 2004.

Vote: Motion failed with Lewis and Pattison voting no.

CHAIRMAN ZOOK asked **Director Chuck Swysgood, Office of Budget and Program Planning**, to comment on amendment **HB000225.agd. EXHIBIT(frs88hb0002a04)**

Director Swysgood advised the amendment is not needed now with the new fiscal note on **SB 407**.

Motion: **REP. LEWIS** moved that **HB000226.AGD** BE ADOPTED.
EXHIBIT(frs88hb0002a05)

REP. LEWIS advised **HB 618** raised the fee for reinstatement of drivers licenses. This is spending authority to transfer half of the money to county drinking and driving prevention task forces.

Vote: Motion carried unanimously.

SEN. KEENAN addressed amendment **HB000227.agd**. The fiscal note to **SB 461** has a hit on the general fund of \$4.2 and \$8.5 million.

CHAIRMAN ZOOK said the amendment provides \$130,375 general fund for the biennium for the Compliance Valuation and Resolution Program for the **Department of Revenue** to implement **SB 461**.

Director Swysgood advised the amendment applies to the reappraisal costs for the department to implement adjustments to reappraisal.

REP. MONICA LINDEEN thought in subcommittee they had some kind of new proposal that dealt with this.

Kurt Alme, Director, Department of Revenue, said the subcommittee had a negative decision package relative to completing reappraisal. It downsized personal services by 14 FTE. A new provision was added to **SB 461** in conference committee to take care of people with extraordinary increases in value. They process about 7000 applications per year for the income tests to see if these folks qualify for this property tax assistance. The costs are all associated with administering this particular extended property tax relief program put on by conference committee.

Motion: **SEN. KEENAN** moved that **HB000227.AGD** BE ADOPTED.
EXHIBIT(frs88hb0002a06) **Vote:** Motion carried unanimously.

REP. LEWIS said he had **HB000242.alz** which would put \$1.8 million to the Judiciary budget. **EXHIBIT(frs88hb0002a07)**

Motion: **REP. LEWIS** moved a **CONCEPTUAL AMENDMENT** to allow the Judiciary to carry any unexpended funds forward from the 2003 biennium into the 2005 biennium.

REP. LEWIS explained if they have money left over in court assumption accounts or any of their other general fund accounts, they can carry those funds forward to address what they believe is a shortfall.

Taryn Purdy, Legislative Fiscal Division, advised they need an appropriation for that. It can be done in a language appropriation with up to a certain amount.

REP. LEWIS said it would be up to \$1.8 million. The intent of the amendment is to carry them all forward up to \$1.8 million general fund forward from left over balances in this biennium to the next biennium.

Vote: Motion carried 6-5 with Zook voting no.

SEN. KEENAN had a question on **HB000244.alz.**, which had to do with **HB 489**.

CHAIRMAN ZOOK stated the amendment is for expenses associated with the civil jury trials assumed by the state under **HB 489**. Some counties got this because they had expenses, and other counties did not. This is to correct that.

Motion: **SEN. KEENAN** moved that **HB000244.ALZ BE ADOPTED**.
EXHIBIT(frs88hb0002a08) Motion failed with Lewis and Pattison voting no.

Motion: **REP. LEWIS** moved that **HB000251.ALZ BE ADOPTED**.
EXHIBIT(frs88hb0002a09)

REP. LEWIS said this is \$19,400 general fund for the **Legislative Services Division**. The legislature had funded the limited television broadcasting and recording of the legislative session last time with higher lobbyist fees. This time **HB 689** lowered those fees, and the staff asked he present this amendment to offset the loss of those fees so they can maintain what they're doing with the broadcasting. He thought it has been valuable, and he hoped it could be expanded statewide next time.

CHAIRMAN ZOOK commented it extends the discussion sometimes. He remarked, "at least they don't get it in eastern Montana."

REP. PATTISON said he had the same thought.

Vote: Motion failed with Keenan, Pattison, and Zook voting no.

Motion: SEN. NELSON moved that HB000247.ALZ BE ADOPTED.
EXHIBIT(frs88hb0002a10)

SEN. NELSON said the amendment has to do with the Pacific Northwest Economic Region, and covers a portion of the dues and the travel for the two members. She thought when they can't belong to these things, they are not keeping up with what's going on the other states.

CHAIRMAN ZOOK advised SEN. GLENN ROUSH and SEN. AUBYN CURTISS were the members. SEN. NELSON explained SEN. CURTISS had been the House member.

Vote: Motion passed with Keenan and Pattison voting no.

Motion: REP. LINDEEN moved that HB000253.ALZ BE ADOPTED.
EXHIBIT(frs88hb0002a11)

REP. LINDEEN said this has to do with the Workforce Training Act, which is on it's way to the Governor's office. It gives the Governor's **Office of Economic Development** authority for \$10 million in state special revenue for workforce training grants.

Discussion:

SEN. KEENAN asked about the source of the state special revenue.

REP. LINDEEN replied companies apply for the workforce training grants to the **Board of Investments** for loans.

CHAIRMAN ZOOK said this doesn't go out to the various area organizations, and REP. LINDEEN affirmed it does not.

Vote: Motion carried unanimously.

SEN. KEENAN asked SEN. JOHN ESP to interpret the second paragraph on amendment HB000255.alz. SEN. ESP advised it says the amendment is not relevant to **SB 490** as it currently exists. This amendment was needed for transmittal purposes initially. The Judiciary has always requested these FTEs.

Motion: SEN. NELSON moved that HB000255.ALZ BE ADOPTED.
EXHIBIT(frs88hb0002a12)

Discussion:

REP. LEWIS said he had trouble understanding what happened, and asked if they get more money or less money if the motion is accepted.

CHAIRMAN ZOOK said it provides funding for 2.25 FTE, whether or not **SB 490** passes.

REP. LEWIS asked if they accept this, there isn't any reduction, etc.

{Tape: 1; Side: B}

Ms. Purdy said line 14 is a contingency on administrative positions that were added. This says they will be added regardless of whether or not that legislation passed. There is nothing that will reduce those FTEs. They already put the money in.

Vote: Motion passed unanimously.

Motion: **CHAIRMAN ZOOK** moved that **HB000257.ALZ BE ADOPTED.**
EXHIBIT(frs88hb0002a13)

CHAIRMAN ZOOK said the amendment removes \$240,000 in state special from the **State Auditor's** contract insurance examination budget for market conduct examinations. It will remain in the contract insurance examination budget over the biennium for statutorily required examinations of domestic insurers.

SEN. NELSON asked someone from the **Auditor's Office** to comment.

John Huth, State Auditor's Office, said the amendment would reduce a market conduct study his office would do. A market conduct study comes about when the **State Auditor's Office** receives numerous complaints about an insurance company. At that time, they have to do a market conduct study to make sure the practices of the insurance company are legal in the state of Montana. This was put into the budget for the first time this year. With this reduction, they wouldn't have any flexibility to carry out these market conduct studies, which help the consumer. The only reason they do these studies, is when they receive a lot of complaints throughout Montana about a particular insurance company.

SEN. NELSON asked why they would want to cut this out, because it is not general fund.

CHAIRMAN ZOOK said the feeling was it was not being cut out, just moved to another area and asking them to do the statutorily required examinations of domestic insurers.

Ms. Purdy verified the way the **State Auditor** is funded is with fees that come into the state. The remaining fees go into the general fund.

Mr. Huth explained they are statutorily mandated to do examinations of insurance companies for financial solvency once every five years. The market conduct study would be on the same principle. It is not a solvency issue; it would be a practice issue. This is just authority to do the study. It is a zero cost to the budget. They contract out for an examiner to do the study, and the insurance company has to pay it.

CHAIRMAN ZOOK asked how they have done this in the past if they didn't have funding for it.

Mr. Huth advised in the past they have done statutorily required market conduct studies on insurance companies that are domesticated in Montana. Blue Cross Blue Shield is the biggest one, and they do that once every three years. This one is asking for the authority to do companies that aren't domestic in Montana. Statutorily, they don't have to do it. The reason they would do it, is because they've received a lot of complaints on companies.

CHAIRMAN ZOOK asked if these studies would apply to insurance companies from outside the state that do business in the state. **Mr. Huth** said that is correct.

REP. PATTISON asked if they found anything in the studies they've done. **Mr. Huth** didn't have any specific examples, but knew they'd done some on a few of the larger companies where they have determined the practices they were using were in statute in Montana. The penalties can be fines, or at a minimum companies have to change the way they are doing business in Montana.

REP. PATTISON asked how they figure out what to fine them, and where do the fines go. **Mr. Huth** replied all fines in insurance and securities go to the general fund. Fines depend on the severity, and are negotiated.

REP. PATTISON said with the \$240,000 on this amendment, he wondered if the companies are paying their way. **Mr Huth** indicated they budget about \$30,000 to \$50,000 for fines. It is a tough area to budget. They don't like to set a high revenue figure in that, because they don't want to be held to meeting

their goal. They would have to go out and find insurance companies, and that is not the way they want to operate. He didn't want to go on record as saying the fines would cover this, but the insurance company does have to reimburse the **State Auditor** for the cost of the examination.

CHAIRMAN ZOOK said his understanding is if they get a complaint, and investigate a company, the company is charged for the investigation. **Mr. Huth** said that is correct. Even in a financial examination, the whole budget is authority only. It is a zero cost, because what they charge, they collect from the company. The company pays the cost of the market conduct study and the financial examination.

CHAIRMAN ZOOK said if he has a beef against an insurance company for some reason and complains, the company have to pay for the investigation. **Mr. Huth** pointed out before a market conduct study is undertaken, there has to be numerous complaints. Before they do the study, they talk to the company to try to determine whether the study is even necessary.

SEN. NELSON thought it sounded like a good consumer protection. If they get a number of complaints, they go investigate. **Mr. Huth** advised that's how he would view it. **SEN. NELSON** said the money won't necessarily be spent this year, only if it's needed. **Mr. Huth** indicated it is authority only. The remaining amount in the budget is for the financial examinations. They have to make a schedule estimating the companies they're going to examine. Those are mandated every five years.

Vote: Motion failed with Lindeen and Nelson voting aye.

Motion: **SEN. KEENAN** moved that HB000261.ALZ BE ADOPTED.
EXHIBIT(frs88hb0002a14)

According to **SEN. KEENAN** this was an issue they discussed in the conference committee on **HB 2** two years ago. There is a Citizen's Review Board administered by the **Supreme Court**. There is also a Foster Care Review Board in the **Department of Public Health and Human Services**. Former **SEN. MIGNON WATERMAN** had a bill, **SB 283**, in the last session that did some work with this. This issue had not come up in this session. This would eliminate the Citizen's Review Board that is administered by the **Supreme Court**. Last session his was the deciding vote to continue the status quo with those two systems. Besides a legislative audit report from December 19, there has not been a word spoken about this throughout the whole legislative session. He had a letter from the **Supreme Court** dated April 4, 2001, and in this letter he was

promised resolution would be made on this issue for this session. Nothing has happened and he thought it time this pilot project that has been in existence for ten years be terminated.

CHAIRMAN ZOOK advised it saves \$300,000 general fund.

Vote: Motion carried unanimously.

REP. LINDEEN asked about **HB000225.agd**. (Exhibit 4) She understood the amendment wasn't needed because of the change in the fiscal note for **SB 207**. The change in the fiscal note adds another \$7 million in revenue. **Director Swysgood** indicated yes. **REP. LINDEEN** said a portion of that money would be used to fund this. **Director Swysgood** believed when **SB 271** passed, this particular piece of IT was in that.

Section B:

Motion: SEN. KEENAN moved that HB000267.ALS BE ADOPTED.

EXHIBIT(frs88hb0002a15) Vote: Motion carried unanimously.

SEN. KEENAN asked **Lois Steinbeck** about the amendment. There are references to the Prevention and Stabilization Fund throughout **HB 2**. He asked if amendments have been drafted to cleanse **HB 2** of that, considering **SB 407** contingency has a conflict in **HB 2**. **Ms. Steinbeck** advised she was requested to draft a contingent void-ness global amendment. **SEN. KEENAN** asked if it would be best to clean up Prevention and Stabilization and **SB 485** language later. **Ms. Steinbeck** advised it is the only amendment she was asked to draft. **CHAIRMAN ZOOK** advised it is in boilerplate.

Motion: SEN. KEENAN moved that HB000253.ALS BE ADOPTED.

EXHIBIT(frs88hb0002a16) Vote: Motion carried unanimously.

REP. LEWIS asked about **HB000254.ALS**. **EXHIBIT(frs88hb0002a17)**

Ms. Purdy explained they passed an amendment that essentially paid for the cost of state special. This amendment was at the request of **SEN. JIM ELLIOTT**, and is a small hit on the general fund. **REP. LEWIS** acknowledged they wouldn't have to do this, as it is already earmarked in special revenue.

Motion: REP. LEWIS moved that HB000255.ALS BE ADOPTED.

EXHIBIT(frs88hb0002a18)

REP. LEWIS recalled the hospitals and nursing homes agreed to impose fees on themselves, and remit those fees to the state so it could be matched with Medicaid to increase the rates paid by

the state for services provided under Medicaid. In **Senate Finance and Claims**, some of that money was reduced and reallocated to other services where there were higher priorities. This amendment reverses that action. Both the nursing homes and hospitals stepped forward and were willing to impose the fees on themselves in order to generate those monies, and he hated to take it away from them. A lot of the other providers could have done the same thing, and chose not to. What has happened now, is they have taken the money from those that made the proposal and reallocated it to others who passed on the whole issue of provider fees.

REP. LINDEEN asked about the last paragraph about removing the general fund that supports visual medical services. **Pat Gervais, Legislative Fiscal Division**, advised the \$169,000 for the biennium is the entire funding for the visual services medical program. That was the base funding level and was a reduction included in the Executive budget.

REP. LEWIS said the services were identified in the Executive budget as a lower priority. **Ms. Gervais** said they identified it for elimination.

REP. LINDEEN asked for information on those services. **Ms. Gervais** advised the visual services medical program is administered by the Disability Services Division. It provides services to those with blindness or low vision, and provides medical services when the individual is not eligible for Medicaid, vocational rehab, or any other source.

{Tape: 2; Side: A}

REP. LINDEEN asked how many individuals are being served who would not be served. **Ms. Gervais** advised 72 people would not be served. **REP. LINDEEN** asked for clarification of where the \$169,000 would go, and **Ms. Gervais** stated it would go towards nursing homes.

SEN. NELSON remarked this is one of those unfortunate things that is pitting one program against the other. Elsewhere in the budget there was \$2 million in IGT funds that were taken. Taking this money in the first place from the nursing homes was really tough, because this will hit on the nursing homes. It comes down to priorities.

REP. LEWIS closed on his motion. The original proposal was to have a broad-based Medicaid provider tax where all Medicaid providers would pay a portion of their income back to the state to match with Medicaid to increase their reimbursement for

services. Everybody opted out except for the nursing homes and the hospitals. Some children's psychiatric services were also included. He thought it only fair to not take money away from the nursing homes and hospitals and give it those who chose not to participate in the broad-based provider tax.

Vote: Motion failed with Lewis, Lindeen, Nelson, and Pattison voting yes.

Motion: REP. PATTISON moved that HB000257.ALS BE ADOPTED.

EXHIBIT(frs88hb0002a19)

REP. PATTISON proposed purchasing radios that will allow transmission of data and voice for ambulances and hospitals on the high-line. One of the benefits would be confidentiality. It beams to the hospital at Billings Deaconess, and the patient can be diagnosed and sent to the airport if necessary. He thought this could save a lot of lives. There is an aging population, and it is miles between health care facilities. This would buy 25 radios and five hospital stations. There is contingency money to help cover the costs of installation, etc.

CHAIRMAN ZOOK asked how many this buys. **REP. PATTISON** advised the radios are about \$5000 apiece for 25 ambulances. There are the five hospital stations and the contingency for installation.

SEN. NELSON asked if this is a pilot project. **REP. PATTISON** indicated there is nothing like this right now. This is called the Northern Tier Interoperability project. He read a description of the project. He is trying to include the EMS's in the project, and that is what the amendment would do.

REP. LEWIS said he would vote for it if **REP. PATTISON** will offer amendments to pay for it. **REP. PATTISON** indicated he planned to.

REP. LINDEEN asked if the actual telecommunications infrastructure is in place. **REP. PATTISON** said it is. **REP. LINDEEN** asked if it is fair to ask what he would offer to pay for this, and **REP. PATTISON** answered no.

SEN. KEENAN advised there are three critical access hospitals in the state of Montana. He wondered how this is going to go where they want it to go. **REP. PATTISON** said before **Drew Dawson, DPHHS**, left, they worked out some language earmarking a restricted biennial one-time-only for the expenditure.

CHAIRMAN ZOOK wondered if funding was available through Homeland Security for something like this. **REP. PATTISON** said he would

try to find funding any way he could. **CHAIRMAN ZOOK** said **REP. PATTISON** is not saying they don't have radios today, they just aren't top of the line digital. **REP. PATTISON** indicated this is a special type of digital transmission for voice and data at the same time on a secure network, which provides confidentiality. They can take a scan and send an EKG over the radio as they're going down the road in the ambulance and send it to the hospital for analysis. Most of the folks in his country are farmers and ranchers that pack a radio. When they get a signal, they shut down the tractor and try to help.

CHAIRMAN ZOOK said **REP. PATTISON** mentioned, in answer to a question, that he had a place to make some reductions. He wondered if this is one of those good deals where they cut in the west and spend in the east. **REP. PATTISON** said it is.

SEN. KEENAN asked if they have flight for life up there. **REP. PATTISON** indicated in Glasgow they have a stat ambulance. They've had fund-raising and pie auctions to try to put money into the EMT's. He thought this would be a big step in health care for rural Montana.

SEN. NELSON asked if his intent is to cut \$250,000 from other programs. **REP. PATTISON** acknowledged he was trying to come up with the full \$250,000.

Vote: Motion carried unanimously.

Motion: **SEN. NELSON** moved that HB000264.ALS BE ADOPTED.
EXHIBIT(frs88hb0002a20)

SEN. NELSON advised this has to do with **CHIP** funding, and increases federal appropriations for the **CHIP** program to allow **DPHHS** to spend federal **CHIP** grant funds if it receives private donations. She felt this was a way to move this along and perhaps get some donations.

SEN. KEENAN asked if this is unrelated to **SB 314**. **SEN. ESP** advised this amendment was in lieu of **SB 314**. The bill attempted to create a program that already exists in statute. The two references in the amendment are the sections of the statute that allow private donations for programs. If they come in, there is spending authority for the federal funds. **SEN. KEENAN** asked if the eligibility stays the same as it is currently. **SEN. ESP** answered that is correct--150%.

REP. LEWIS said his concern about the proposal is that **CHIP** is an ongoing program. They would need private donations to maintain

the program. He was bothered by the concept of using potentially one-time money for an ongoing program.

SEN. NELSON said this would be for any expansion of **CHIP**.

SEN. ESP said it is the intention of certain groups and businesses in the state to try to raise money for this program in an ongoing fashion. This was a way to do that without expanding the program any more than they thought they could handle. If it looks like they are going to be successful, then it will be addressed with further legislation in the next session.

CHAIRMAN ZOOK recalled when this program started, it was all volunteer money. The Washington Corporation donated very generously to it. When it became a government program, they withdrew their support for it, as he remembered it. He thought this is a good amendment that goes in the right direction.

SEN. KEENAN thought he was referring to the Blue Cross Blue Shield Caring Program. **CHAIRMAN ZOOK** said they were the ones that administer it. **CHIP** replaced that program entirely.

REP. LEWIS asked if someone contributes \$100,000, and several hundred people are signed up on **CHIP**, what happens when the \$100,000 is gone. He thought it is a set up to fail. **SEN. ESP** said it was thought it would initially shorten the waiting list on the program they have now. If the money does diminish, the waiting list would expand.

Vote: Motion carried with Lewis voting no.

Section C:

Motion: **SEN. KEENAN** moved that HB000240.AGH BE ADOPTED.
EXHIBIT (frs88hb0002a21)

CHAIRMAN ZOOK said this has to do with the development of the Otter Creek Tracts. Ultimately, this motion would affect the general fund by the same amount. This will backfill the loss in revenue to the guarantee fund for schools. **SEN. KEENAN** affirmed it would be backfilled by the general fund.

Director Swysgood advised they are in support of the amendment. This is a necessary step to start the process of the development of the Otter Creek Tracts.

REP. LEWIS asked if normally when someone applies for a permit they pay the cost of the evaluation, etc. He wondered why the state was into this for \$300,000 general fund.

SEN. KEENAN advised the state owns the Otter Creek Tracts. This is an arrangement that was worked out with the Northern Cheyenne Tribe to do this archeological survey of the land. He thought the contracts to develop those tracts could backfill this money. At this point in time, it is state lands.

CHAIRMAN ZOOK thought the state has a strong monetary interest in seeing this be developed.

Vote: Motion carried with Pattison voting no.

Motion: SEN. KEENAN moved that HB000246.AGH BE ADOPTED.

EXHIBIT(frs88hb0002a22)

SEN. KEENAN explained this is state special revenue of \$40,000 for a study to recalculate the annual sustainable yield of forests on state lands. **HB 537** has passed.

Discussion:

REP. LINDEEN asked about the source of state special revenue.

{Tape: 2; Side: B}

Gary Hamel, Legislative Fiscal Division, advised it is the timber sale account.

Vote: Motion carried unanimously.

Motion: SEN. NELSON moved that HB000249.AHG BE ADOPTED.

EXHIBIT(frs88hb0002a23)

SEN. NELSON addressed the amendment. She indicated she mis-spoke when she said this would put back all the FTE's they cut out in subcommittee. This reinstates about five. She asked the director to address this.

Jeff Hagener, Department of Fish, Wildlife, and Parks, said subcommittee actions reduced their budget from the Executive by 20.59 FTE and \$4.1 million. That included \$280,000 general fund, but the rest of the money was all state special and federal special money. The amendment requests restoring 5.5 of those FTE, and roughly \$750,000. These FTE's are positions that are in place; they were not approved and the projects are ongoing.

REP. PATTISON said those weren't approved in the decision packages, and wondered if they were new proposals. **Director Hagener** indicated some of those were biennial or restricted before, so they had to request they be included again. He didn't believe they were new packages, but were existing projects that were in place.

REP. PATTISON asked how many were vacant at the time the decision packages were considered. **Director Hagener** thought of the 5.5, about 2.5 were vacant. One of those has been filled since then, and the others were in process.

REP. PATTISON was curious why they hired them if the subcommittee didn't approve them. He wondered if they were anticipating the decision would be reversed in conference committee. **Director Hagener** said those were already in the hiring process, and they have the funding in the current biennium.

REP. PATTISON expressed frustration about vacant positions, etc. He said he would oppose the amendment.

Vote: Motion failed with **NELSON** voting yes.

Motion: **SEN. KEENAN** moved that HB000250.AGH BE ADOPTED.
EXHIBIT(frs88hb0002a24)

CHAIRMAN ZOOK advised the amendment adds 1.6 FTE and associated state special revenue of \$64,265 in 2004 and \$64,063 in 2005 to **FWP** to implement provisions of **HB 42**. He thought there was statutory authority in the bill.

SEN. KEITH BALES advised that statutory appropriation was taken out. He thought this goes along fairly well with the fiscal note. **CHAIRMAN ZOOK** said staff indicated it's less than the fiscal note.

REP. LINDEEN asked if this is the same bill the Senate requested back in the House. **CHAIRMAN ZOOK** said it was because they got it out so late. They set aside a lot of House bills to act on Senate bills. It was the understanding that all those bills were alright. **HB 42** showed up on a list of bills that were late. The Senate certainly didn't want to kill that bill. It has been to the Governor and has been returned with her amendments. He recalled the Senate took all the amendments off that the **Senate Finance and Claims Committee** put on, and she put some amendments back on.

REP. LINDEEN asked if those amendments included something to do with the effective date. **SEN. BALES** said it changed the language related to the effective date. It left the effective date, but changed the word "insure" to more of a goal instead of a drop dead date.

Vote: Motion carried with **NELSON** voting no.

Motion: **SEN. KEENAN** moved that HB000254.AGH BE ADOPTED.
EXHIBIT(frs88hb0002a25)

SEN. KEENAN stated the amendment adds \$21,734 state special revenue to implement **SB 130** which revises recreational use of state trust lands and increases those revenues.

Vote: Motion carried unanimously.

Motion: **CHAIRMAN ZOOK** moved that HB000256.AGH BE ADOPTED.
EXHIBIT(frs88hb0002a26)

CHAIRMAN ZOOK advised they had a bill from the house that dealt with this same issue. There is a problem between Montanan and Wyoming over the water in the Tongue River. Montana water users on the Tongue River feel they are getting the short end of the stick regarding a compact made in 1950. They would like to see this monitored; they think Wyoming has developed a lot of additional irrigated ground and also has a \$1 million study going on to see how much additional land is suitable for irrigation. The Tongue River water users are very concerned about their water, and would like to see this compact be monitored to see if this is the case. This is \$10,000 general fund restricted.

Vote: Motion carried unanimously.

REP. LINDEEN said they passed an amendment dealing with the Zortman and Landusky mine. There is some concern from the Fort Belknap Tribes about this amendment having some effect on a potential lawsuit. She had a letter from the Fort Belknap Indian community that addresses **HB 367**, which was carried by **REP.**

JONATHAN WINDY BOY. EXHIBIT(frs88hb0002a27) Her intention was to make a motion to remove the amendment. She read a letter from **REP. WINDY BOY.**

Motion: **REP. LINDEEN** moved to RECONSIDER ACTION ON HB000243.AGH.
EXHIBIT(frs88hb0002a28)

REP. PATTISON said he felt bad for **REP. WINDY BOY**, who had a motion to kill his own bill on the floor. He indicated this is

in his back yard too, and Zortman is his district. He told **REP. WINDY BOY** he respected him for bringing attention to the problem with the water. The bill **REP. WINDY BOY** first had was not feasible. They tried to find a compromise to accomplish what he was trying to achieve. **REP. PATTISON** talked to the **Department of Environmental Quality**, the budget office, etc., to come up with a workable solution. One of the comments **REP. WINDY BOY** made was he wanted it all or nothing. This is a process of compromise, and he didn't see where this would disable the **DEQ** from issuing any bonds more than \$2 million.

Jan Sensibaugh, DEQ, said she had not seen the letter from the tribe, but attorneys who would be defending the **DEQ** in the lawsuit had no problem with this amendment, and didn't feel it affected the lawsuit at all. She was puzzled about how putting more money aside to take care of the reclamation problems at Zortman is a bad thing.

REP. LINDEEN asked **REP. WINDY BOY** to comment.

REP. WINDY BOY advised he visited constituents on the campaign trail in **HD 92**. This was a concern, but he talked to the Fort Belknap Council and they had existing lawsuits. The department admitted in testimony that the amount allocated was underfunded. That was why he brought the amount forward in the bill. The Tribes didn't want anything to hamper the existing lawsuits. The language of the amendment is going to put forth \$2.5 million of the existing money that is available that the **Board of Investments** already has the authority to do. The bill he brought forward would have increased that existing money from \$8 million to \$12 million. The general obligation bonds would make the state responsible for the cleanup by the year 2017. He felt the state needed to step up to the plate and be responsible.

REP. PATTISON said the majority of that land is BLM land, and he thought they ought to take care of the problem too. He did not intend to offend **REP. WINDY BOY**, and stood behind the process. He claimed the best of intentions for what he did. He thought they could get something going for a water treatment plant. He did what he thought was right, and still thought it was right.

REP. LINDEEN thought both gentlemen had good intentions and the best interest of the district at heart.

Vote: Motion failed with **NELSON** and **LINDEEN** voting yes.

Section D:

Motion: REP. LEWIS moved that HB000217.ATP BE ADOPTED.
EXHIBIT(frs88hb0002a29)

REP. LEWIS advised the amendment replaces roughly \$2.3 million in general fund within the **Montana Highway Patrol** budget that is presently being spent for per diem. There is available money in the unrestricted gas tax account that can be used for this purpose. This would transfer an additional \$2.3 million from the unrestricted highway gas tax account and reduce the general fund appropriation by an equivalent amount.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000244.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a30)

Director Swysgood indicated this would implement **HB 478** within the **Department of Justice**

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000225.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a31)

SEN. KEENAN advised this implements a number of bills within the **Department of Justice**.

{Tape: 3; Side: A}

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000226.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a32)

CHAIRMAN ZOOK remarked this is just a technical amendment.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000227.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a33)

SEN. KEENAN asked for an explanation on **SB 493** and why this might be general fund as opposed to Homeland Security federal funds.

Director Swysgood replied this was for a security system position at the request of the department.

Larry Fasbender, Director, Department of Justice, advised they are required under Executive Order of the Governor and the President of the United States to come up with a security system to secure information systems and critical infrastructure. At the time this came up, they were anticipating there were other ways to deal with that. At this point, they have no security personnel at all. The state is also requiring they increase security as far as their system is concerned. This would be one-time-funding. In the next biennium they would come up with another source of funds. There is a considerable amount of work they will have to do as far as the criminal justice system is concerned. They are asking for one position. Four years ago, they lost a security position they had in the department. They are asking to put a position in place for the next two years.

REP. LINDEEN said this position would be in the **Department of Justice** to look at security concerns of the department's network. She asked why they aren't looking at the state's network with ITSD.

Mr. Fasbender indicated the state does security work to maintain the infrastructure they have in place. They also issue information to the departments to make sure they have security for the programs they have in place. The **Department of Justice** has no security officer in their operation currently to guarantee the security of their system. They have confidential information, and the FBI has restrictions and requirements.

REP. LINDEEN said the state has a Homeland Security task force, and she wondered if the Chief Information Officer is involved with security issues.

Mr. Fasbender said he had not spoken to **Brian Wolf, Chief Information Officer**, about this. They had a request from the **Department of Administration** to perform certain things in order to increase security. This specific request is something they need to meet federal and state requirements in order to keep their infrastructure secure.

Vote: Motion passed with **KEENAN** and **LEWIS** voting no.

Motion: **REP. LINDEEN** moved that HB000231.ATY BE ADOPTED.
EXHIBIT (frs88hb0002a34)

REP. LINDEEN advised this also deals with **HB 564**, the Workforce Training Act. This amendment adds \$250,000 state special revenue for the **Department of Labor and Industry** to assist in analyzing labor supply.

REP. PATTISON asked about the source of the money. **REP. LINDEEN** indicated when the income taxes are collected on the new jobs created to repay the loans on the training grants, there is a retention of 5% that is used for these studies.

REP. PATTISON asked if there is any payback for these loans. **REP. LINDEEN** said when the **Board of Investments** loan is made to the businesses, it is repaid through capturing the income taxes on the new jobs created. Five percent is retained to fund the labor market studies.

Vote: Motion carried unanimously.

Motion: **SEN. KEENAN** moved that HB000242.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a35)

SEN. KEENAN said this has to do with **SEN. JOHN BOHLINGER'S** bill, SB 283.

SEN. KEENAN withdrew his motion.

REP. LINDEEN explained she had an amendment at the previous meeting that dealt with labor studies from the Tribes. There was concern about the word "shall," and this is a language change. She asked for someone from the department to explain the source of the state special revenue.

Ingrid Childress, Department of Labor, said it is the Employment Security Account.

Motion: **REP. LINDEEN** moved that HB000244.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a36)

Vote: Motion carried unanimously.

Motion: **REP. LEWIS** moved that HB000250.ATY BE ADOPTED and to conceptually drop all the language in the insert starting with the word "Additionally". **EXHIBIT**(frs88hb0002a37)

REP. LEWIS said the department has applied for a federal grant. The amendment adds \$100,000 each year of federal spending authority if they get a federal grant.

Discussion:

REP. LINDEEN asked if he is striking everything after additionally. **REP. LEWIS** says all the amendment would say is they get a federal grant, they can spend up to \$100,000 a year.

SEN. NELSON asked if this also omits any reference to coal tax trust fund. **REP. LEWIS** said that is correct.

CHAIRMAN ZOOK advised the coal tax money is still in the bill. **REP. LEWIS** indicated this amendment is the result of conversations with **SEN. CAROLYN SQUIRES** where hooking this particular proposal to the coal tax trust had caused her great distress.

Vote: Motion carried unanimously.

Motion: **SEN. KEENAN** moved that a CONCEPTUAL AMENDMENT ON D(5), STRIKING LINES 8-9 BE ADOPTED.

SEN. KEENAN advised this would take the coal tax trust cannery situation out of **HB 2**.

Ms. Purdy explained part of that amendment would also be an adjustment to the boilerplate.

Vote: Motion carried unanimously.

Motion: **SEN. KEENAN** moved that HB000251.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a38)

SEN. KEENAN said this pertains to **SB 271**. **Ms. Purdy** advised the free conference committee has met on that.

SEN. KEENAN withdrew his motion.

Motion: **REP. LEWIS** moved that HB000254.ATY BE ADOPTED.
EXHIBIT(frs88hb0002a39)

REP. LEWIS advised the department was short \$80,000 to match the money they got for the Stimson mill closure in Libby.

Vote: Motion failed Lewis voting yes.

Section E:

Motion: **REP. LEWIS** moved that HB000202.AJM BE ADOPTED.
EXHIBIT(frs88hb0002a40)

REP. LEWIS advised there is a private foundation that is interested in potentially making a grant to Phillipsburg to look at the possibilities of establishing some kind of higher educational facility in that area. They need \$10,000 match in order to get started on the grant application. This would

appropriate \$10,000 general fund to the **Board of Regents** for the purposes of providing assistance and funding to Phillipsburg in pursuing this grant. The Northwest Area Foundation is one entity interested in working with the community.

SEN. NELSON wondered why they would want yet another community college, when they have so much trouble funding the institutions they have.

REP. LEWIS thought part of the research would be to determine the potential for a successful effort to establish that type of facility in the area. This is a county that is suffering economic distress. They are looking for any possibilities. There is nothing in this that establishes a community college; this would just be research to look at the potential in the future.

CHAIRMAN ZOOK said he could understand them wanting something like this, but the lack of state support at this time is expensive for local taxpayers. He wondered if they made a request to the **Board of Regents**, if they wouldn't get some help in regards to this, or even from one of the other community colleges.

Vote: Motion failed with Lewis and Pattison voting yes.

Motion: SEN. KEENAN moved that HB000255.APJ BE ADOPTED.

EXHIBIT (frs88hb0002a41)

SEN. KEENAN said two years ago, they put \$200,000 in the Yellow Bay Biological Station to do a water quality white paper study on coal bed methane. In the August special session, that was reduced to \$196,000. For this biennium, it ended up in the base. This amendment would restrict this to one-time only for water quality monitoring in the Flathead Basin, rather than just being in the base of the Yellow Bay Biological station. There is a 20 year study of baseline data on the water quality in the Flathead Basin. There is a two year gap in that now, so when they found this money, he thought it would be better spent to maintain that baseline of water quality monitoring rather than just going into the base, which it shouldn't have done in the first place. **{Tape: 3; Side: B}** There is a net savings of \$26,500.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000253.APJ BE ADOPTED.

EXHIBIT (frs88hb0002a42)

SEN. KEENAN advised now that he was up \$326,500, he would spend \$300,000. This is the project of **REP. STEVE GALLUS** at Montana Tech for the Rocky Mountain Agile Virtual Enterprise Program.

REP. LINDEEN offered that this is a project **REP. GALLUS** brought to the **Appropriations Committee** for two sessions now. It is a very good program to develop some high tech manufacturing in the state.

SEN. KEENAN wanted to amend the motion to make it one-time-only.

Vote: Motion carried with **NELSON** voting no.

Motion: **REP. LINDEEN** moved that HB000257.APJ BE ADOPTED.

REP. LINDEEN said the amendment would increase funding to the Montana Agricultural Experiment Station by \$1.9 million, and Montana Extension Services by almost \$580,000. These are federal dollars contingent upon receipt of federal dollars intended for relief to the states. This is a smaller version of the amendment that was passed on the House floor and stripped out by the Senate.

CHAIRMAN ZOOK said this is general fund in the end.

Ms. Purdy advised there would be no impact on the general fund.

SEN. NELSON asked if this goes to agricultural research and extension. They were fully funded in subcommittee. **REP. LINDEEN** said these dollar amounts would restore the agricultural research stations and extension to the level before the cuts in the special session.

SEN. NELSON asked if this takes money away from the **University System**. **REP. LINDEEN** said no, because the money that may come from the federal government to the states for relief would be unencumbered.

REP. PATTISON asked about the language "the general fund increase be made on a prorated basis."

Pam Joehler, Legislative Services Division, advised she wrote this amendment somewhat to the way it had been written before, so she included the prorated language. This is included in case the amount of unencumbered federal funds is less than \$2.5 million prorated to agencies. The alternative is for the legislature to identify priorities of where they would want the money allocated. Earlier in the session, legislators wanted it prorated.

Vote: Motion failed with Lewis, Lindeen, Nelson, Pattison voting yes.

ADJOURNMENT

Adjournment: 9:25 P.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/DL/

EXHIBIT (frs88hb0002aad)